

### ***REMARKS***

The Examiner is thanked for the thorough examination of the present application. The Office Action mailed August 28, 2006 tentatively rejected claims 1-22. This is a full and timely response to that outstanding Office Action. Claims 1-22 remain pending.

#### **I. Present Status of Patent Application**

The specification is objected to as allegedly failing to provide proper antecedent basis for the claim amendment filed 8/1/2006 because selecting for encryption a digital bit stream from a plurality of digital bit streams is allegedly not specifically disclosed using an identifier on the original specification (Provisional 60/054,578: Page 28 Line 25-28). Claims 1-22 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by *Wasilewski* (U.S. Patent No. 5,418,782). These rejections are respectfully traversed.

#### **II. Objection to Specification**

The specification is objected to as allegedly failing to provide proper antecedent basis for the claim amendment filed 8/1/2006 because selecting for encryption a digital bit stream from a plurality of digital bit streams is allegedly not specifically disclosed using an identifier on the original specification (Provisional 60/054,578: Page 28 Line 25-28). The paragraph of the cited provisional spanning from lines 19-28 on page 28 discusses each transport packet of a transport stream having a packet identifier. Lines 24-26 specifically state, "A subcategory of information can thus be identified by the PID of its packets. As shown at output packets 707, the output from MUX704 is a sequence of individual packets from the various subcategories. Any part or all of MPEG-2 transport stream 701 may be encrypted." Applicant respectfully submits that this passage discloses at least one embodiment in which selecting for encryption a digital bit stream from a plurality of digital bit streams is performed, and that the objection should be withdrawn.

### III. Rejections Under 35 U.S.C. §102(b)

#### A. Claims 1-12

The Office Action rejects claims 1-12 under 35 U.S.C. §102(b) as allegedly being anticipated by *Wasilewski* (U.S. Patent No. 5,418,782). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

**Independent claim 1** recites:

1. A method for providing an instance in a conditional access system, the method comprising the steps of:

***selecting for encryption a digital bit stream from a plurality of digital bit streams using an identifier;***

encrypting the selected digital bit stream according to a first level encryption method to provide an encrypted instance;

combining the encrypted instance with the plurality of digital bit streams to provide a partially-encrypted bit stream; and

transmitting the partially-encrypted bit stream.

(Emphasis added).

Applicant respectfully submits that claim 1 patently defines over the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 as amended is allowable for at least the reason that *Wasilewski* does not disclose, teach, or suggest at least the feature of **selecting for encryption a digital bit stream from a plurality of digital bit streams using an identifier**. Even if, arguendo, *Wasilewski* selects packets for

transmission, it does not teach using an identifier to select streams for encryption. Therefore, *Wasilewski* does not anticipate independent claim 1, and the rejection should be withdrawn.

Because independent claim 1 as amended is allowable over the cited references of record, dependent claims 2-12 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-12 contain all the steps/features of independent claim 1. See *Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, since dependent claims 2-12 are patentable over *Wasilewski*, the rejection to claims 2-12 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-12 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence, there are other reasons why dependent claims 2-12 are allowable.

B. Claims 13-22

The Office Action rejects claims 13-22 under 35 U.S.C. §102(b) as allegedly being anticipated by *Wasilewski* (U.S. Patent No. 5,418,782). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

**Independent claim 13** recites:

13. A method for providing a program in a conditional access system, the method comprising the steps of:

***selecting for encryption a program from a transport stream using an identifier;***

encrypting a portion of the program;

combining the encrypted portion and the remaining portion of the program with the transport stream; and transmitting the combined stream.

(Emphasis added).

Applicant respectfully submits that claim 13 patently defines over the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue.

Applicant respectfully submits that independent claim 13 as amended is allowable for at least the reason that *Wasilewski* does not disclose, teach, or suggest at least the feature of **selecting for encryption a program from a transport stream using an identifier**. Even if, arguendo, *Wasilewski* selects packets for transmission, it does not teach using an identifier to select streams for encryption. Therefore, *Wasilewski* does not anticipate independent claim 13, and the rejection should be withdrawn.

Because independent claim 13 as amended is allowable over the cited references of record, dependent claims 14-22 (which depend from independent claim 13) are allowable as a matter of law for at least the reason that dependent claims 14-22 contain all the steps/features of independent claim 13. Therefore, since dependent

claims 14-22 are patentable over *Wasilewski*, the rejection to claims 14-22 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 13, dependent claims 14-22 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence, there are other reasons why dependent claims 14-22 are allowable.

#### **IV. Miscellaneous Issues**

Applicant thanks the Examiner for his indication that the submitted IDS is allegedly improper. Applicant is currently considering resubmission of the IDS. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-22 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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